



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO.                                                               | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-------------------------------------------------------------------------------|-------------|----------------------|---------------------|------------------|
| 10/501,462                                                                    | 12/13/2004  | Tadashi Nakamura     | TOS-157-USA-PCT     | 7551             |
| 27955                                                                         | 7590        | 05/19/2009           |                     |                  |
| TOWNSEND & BANTA<br>c/o PORTFOLIO IP<br>PO BOX 52050<br>MINNEAPOLIS, MN 55402 |             |                      |                     |                  |
| EXAMINER                                                                      |             |                      |                     |                  |
| KAROL, JODY LYNN                                                              |             |                      |                     |                  |
| ART UNIT                                                                      |             | PAPER NUMBER         |                     |                  |
| 1617                                                                          |             |                      |                     |                  |
| MAIL DATE                                                                     |             | DELIVERY MODE        |                     |                  |
| 05/19/2009                                                                    |             | PAPER                |                     |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

*Ex parte*: TADASHI NAKAMURA, KEIKO NAKAMURA, EMIKO  
TAKASU and ISAMU KANEDA

---

Application No. 10/501,462  
Technology Center 1600

---

Mailed: May 19, 2009

---

Before ERIC W. HAWTHORNE *Supervisory Paralegal Specialist*  
HAWTHORNE, *Supervisory Paralegal Specialist*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on April 9, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

EXAMINER'S ANSWER, MISSING CERTIFIED TRANSLATION

The Examiner relied on the foreign reference Sato et al. (JP 2000-219609 A) in rejecting the claims. A full certified English translation of the above noted foreign reference is not of record in the Image File Wrapper (IFW).

When an Examiner relies on a document “in a language other than English, a translation *must* be obtained so that the record is clear as to the precise facts the examiner is relying upon in support of the rejection” (emphasis added). MPEP §1207.02. Pursuant to a memorandum dated April 29, 2002 by Stephen G. Kunin, Deputy Commissioner for Patent Examination Policy:

Effective immediately, no appeal should be forwarded to the Board of Patent Appeals and Interferences for decision where: (1) a rejection is supported in whole or part by an abstract without reference to the underlying document, . . . ; or (2) a rejection is supported in whole or part by a prior art document not in the English language, unless accompanied by a translation of the prior art document into English.

The memorandum also states “[i]f the document is in a language other than English and the examiner seeks to rely on that document, a translation *must* be obtained so that the record is clear as to the precise facts the examiner is relying upon in support of the rejection” (emphasis added).

**CONCLUSION**

Accordingly, it is **ORDERED** that the application is returned to the Examiner to:

- 1) obtain a full certified English language translation of the above noted foreign reference;
- 2) complete the IFW by having the translation obtained scanned into the IFW file;
- 3) provide copies of the translations obtained to Appellant;
- 4) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

EWB/saw

TOWNSEND & BANTA  
c/o PORTFOLIO IP  
PO BOX 52050  
MINNEAPOLIS MN 55402